

## **Chapter 2-A. Louisiana Deferred Presentment and Small Loan Act**

### **§3578.1. Short title**

This Chapter shall be known and may be cited as the “Louisiana Deferred Presentment and Small Loan Act”.

### **§3578.2. Legislative intent**

It is the intent of the legislature to regulate deferred presentment transactions and small loans. These loans meet a legitimate credit need for many consumers; however, in order to protect consumers from excessive charges, it is the intent of the legislature to put certain restrictions on lenders who make these loans.

### **§3578.3. Definitions**

As used in this Chapter, the following terms have the following meanings ascribed to them:

- (1) “Commissioner” means the commissioner of the office of financial institutions.
- (2) “Deferred presentment transaction” means a transaction made pursuant to a written agreement whereby a licensee:
  - (a) Accepts a check from the issuer dated as of the date it was written;
  - (b) Agrees to hold the check for a period of time not to exceed thirty days prior to negotiation or presentment; and
  - (c) Pays to the issuer of the check the amount of the check less the fee permitted in R.S. 9:3578.4(A). The amount paid to the issuer of the check may not exceed three hundred fifty dollars.
- (3) “Licensee” means a person licensed pursuant to this Chapter that offers deferred presentment transactions or small loans, or both.
- (4) “Partial payment” means a payment of fifty dollars or more on a deferred presentment transaction or small loan.
- (5) “Prepayment” means payment in full of the deferred presentment transaction or small loan amount prior to the end of the term of that transaction or loan.
- (6) “Small loan” means a consumer loan, as defined in R.S. 9:3516(14), of three hundred fifty dollars or less, made for a term of sixty days or less.

#### **§3578.4. Finance charge and fees**

A. In conjunction with a deferred presentment transaction or small loan, a licensee may charge a fee not to exceed sixteen and seventy-five one hundredths percent of the face amount of the check issued or in the case of a small loan, the equivalent rate of interest, provided however that such fee or interest does not exceed forty-five dollars, regardless of the name or type of charge. However, if the loan remains unpaid at contractual maturity, the licensee may charge an amount equal to the rate of thirty-six percent per annum for a period not to exceed one year and beginning one year after contractual maturity, the rate shall not exceed eighteen percent per annum.

B. A licensee may contract with the borrower for reimbursement of the actual fee assessed to the licensee by the licensee's depository institution as a result of a borrower's check being returned for any reason. The fee shall be reimbursed to the licensee only once per check, regardless of the number of times the check was returned by the depository institution.

C. Except for reasonable attorney fees and costs awarded by a court, and fees allowed under R.S. 9:3529 and 3530(C) no other fees or charges may be assessed or collected on a deferred presentment transaction or small loan, including any other fees as may be provided for under Chapter 2 of this Code Title or any other law.

#### **§3578.5. Rebate upon prepayment**

Upon the prepayment in full of a deferred presentment transaction or small loan, during the first five days of the term of such transaction or loan only, the licensee shall refund any and all unearned charges by a method no less favorable to the consumer than the actuarial method, less twenty dollars of the original fee, which shall be considered earned and shall not be subject to refund. Should the consumer make prepayment after the first five days of the term of the transaction or loan, the licensee shall not be required to make any refund.

#### **§3578.6. Prohibited acts**

A. A licensee shall not:

(1) Except for reasonable attorney fees and costs awarded by a court, charge, contract for, receive, or collect a loan finance charge or credit service charge, or any other fee or charge other than as provided in R.S. 9:3578.4.

(2) Sell any goods when those goods are financed with the proceeds of the loan or sell insurance in connection with a deferred presentment transaction or small loan. The sale and financing of services, including but not limited to utility payment services, financial or tax services, or the sale of prepaid telephone services and telephone-related products which are not financed with the proceeds of the loan, shall not be deemed a violation of this Chapter.

- (3) Refuse a partial loan payment of fifty dollars or greater.
- (4) Divide a deferred presentment transaction or small loan into multiple agreements for the purpose of obtaining a higher fee or charge.
- (5) Threaten any customer with prosecution or refer for prosecution any check accepted as payment of a deferred presentment transaction and returned by the lender's depository institution for reason of insufficient funds.
- (6) Structure the repayment of a loan in such a manner as to attempt to circumvent the provisions of this Chapter.
- (7) Renew or roll over a deferred presentment transaction or small loan. However, a licensee may accept a partial payment of twenty-five percent of the amount advanced plus fees charged and enter into a new deferred presentment transaction or renew the small loan for the remaining balance owed. Once a deferred presentment transaction or small loan has been completed, a consumer may enter into a new transaction or loan with the licensee. A deferred presentment transaction or small loan shall be considered completed when the amount advanced has been paid in full by the consumer.
- (8) Take any direct or indirect interest, possessory or otherwise, whether perfected or unperfected, in any property in connection with a small loan, or a deferred presentment transaction.

B. It shall be unlawful for any small loan lender, for any reason and by any means, including but not limited to direct deposit and personal tender, to accept as payment, offer to accept as payment, or require for use as security any check issued pursuant to the federal Social Security Act. In addition, it shall be unlawful for any lender making small loans to act as a depository institution for the acceptance of any check issued pursuant to the federal Social Security Act, unless such lender is a federally insured financial institution.

#### **§3578.7. Posting of notice; toll free number**

The commissioner may provide a notice, which includes a toll free number to the commissioner's office, which shall be posted, along with the fees as allowed under this Chapter, in a conspicuous manner by the licensee at the lending location.

#### **§3578.8. Powers of the commissioner; adoption of rules and regulations**

A. The commissioner may apply the provisions of Parts I, VII, VIII, IX, and X of Chapter 2 of this Code Title, the Louisiana Consumer Credit Law, for purposes of administering and regulating the activities of licensees and the provisions of this Chapter.

B. The commissioner may adopt rules and regulations as he deems necessary to implement the purposes and provisions of this Chapter.